

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4029 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KAMUBEN WD/O THAKORBHAI

JAGABHAI

Versus

STATE OF GUJARAT

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Appearance:

MR DHIRENDRA MEHTA for Petitioners

MR MUKESH A. PATEL A.G.P. for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 14/12/98

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr. Mukesh A. Patel, learned Assistant Government Pleader appearing for the State Authorities. The short grievance of the petitioners is that inspite of the fact that the list of documents was submitted to the learned Tribunal, same was not taken into consideration by the learned Tribunal. This will stand borne out by the observations of the learned Tribunal that the petitioners have failed to produce evidence before the Competent Aurtherity to show that their heirs had been major on the date when the Ceiling Act came into force. Mr. Dhirendra Mehta,

learned advocate appearing for the petitioners submits that the documents produced before the Tribunal would indicate the age of Karshanbhai Natvarbhai and Dhansukhbhai on the date when the Act came into force. However, it would not be necessary to consider the merits of the case as emanating from the documents which were sought to be produced before the learned Tribunal. It would be proper for the Tribunal to consider the document and pass appropriate order in accordance with law. Hence, in the facts of the case, this is a fit case for remanding the matter before the learned Urban Land Tribunal. Hence, the impugned order dated 27th January, 1998 passed by the learned Urban Land Tribunal (Annexure "E" to the petition) is hereby set aside and the matter is remanded to the learned Urban Land Tribunal and the Secretary, Revenue Department, Government of Gujarat who will hear and decide the Appeal No. Surat/60/95 as expeditiously as possible, preferably within a period of three months from the date of receipt of these directions. In doing so, the learned Tribunal will hear the petitioner and will consider the documents placed on record of the appeal by the petitioners. If some more evidence is required to be adduced in respect of the documents produced by the petitioners, it will be open to the appellate authority to remand the matter to the competent authority in accordance with law. All that is left to the appellate authority. Rule is made absolute only to this extent with no order as to cost.

14.12.1998. (M.S.Parikh,J.)

Vyas